

Applicant: JENKINS
Serial No: 10/760,095
Filing Date: January 16, 2004
Page: 6 of 9

REMARKS

In response to the Final Office Action mailed May 21, 2007 (hereinafter "Final Action"), claims 3-7 and 9-13 have been amended. Claims 1, 2 and 14 has been canceled. Claims 15-17 have been newly added. Therefore, claims 3-7, 9-13 and 15-17 are pending. Support for the instant amendments is provided throughout the as-filed specification. Thus, no new matter has been added. In view of the foregoing amendments and the following comments, allowance of all the claims pending in the application is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §102

Claims 1-6 and 9-14 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,836,667 B1 to Smith, Jr. *et al.* ("Smith"). [Final Action, pg. 2]. Applicant traverses this rejection for at least the reason that Smith neither explicitly nor impliedly discloses each of the elements of claims 1-6 and 9-13.

As indicated above, claims 1, 2 and 14 have been cancelled. Thus, the rejection of claims 1, 2 and 14 are moot. Moreover, although Applicant respectfully disagrees with the rejections below, claims 3-7 and 9-13 have been amended, not to differentiate from the applied art, but merely to expedite prosecution. Applicant respectfully reserves the right to prosecute the claims as presented in the previous Amendment in a continuing application.

In particular, independent claim 9 recites, *inter alia*, the features of:

receiving a user-generated message from a subscriber device including a receiver designation with the network, wherein the received message is associated with the coordinate way point and the received message is associated with a specific area of granularity and a time period during which the received message is available;

and

determining when the subscriber devices are in range of the coordinate way point and can receive the received message based on the associated receiver designation, wherein the determining is based on a profile and a location of the subscriber device.

For example, the cited portions of Smith describe a wireless telecommunication system that uses location or position information of a wireless mobile unit to enable the sending of messages to travelers. *See*, col. 2, lines 38-41 of Smith. Based upon the user's

Applicant: JENKINS
Serial No: 10/760,095
Filing Date: January 16, 2004
Page: 7 of 9

location, information related to the location is sent to the user's device through the network. See, col. 7, line 32-col. 8, line 4 of Smith.

The cited portions of Smith teach that information is sent to the user based on the user's location. However, the cited portions of Smith do not disclose allowing the network to receive a user-generated message that is associated with the coordinate way point including a receiver designation. Moreover, the cited portions of Smith do not disclose allowing the network to determine which receivers can receive the received message based on a location and a profile of the receiver and the receiver designation wherein said received message is associated with a specific area of granularity and a time period during which the message is available. For at least these reasons, the cited portions of Smith do not anticipate independent claim 9. The rejection is therefore improper and should be withdrawn.

Dependent claims 10-13 are allowable because they depend from allowable independent claim 9, respectively, as well as for the further features they recite.

REJECTIONS UNDER 35 U.S.C. §103

Dependent claim 7 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Smith in view of Examiner's Official Notice. [Final Action, pgs. 5-6]. Applicant respectfully traverses this rejection for *at least* the reason that a *prima facie* case of obviousness has not been established.

The Examiner's reliance upon Official Notice is challenged. The Examiner is requested to provide evidence as per the requirements of MPEP §2144.03 that the features of claim 7 are well known within the messaging system as recited in claim 16.

Thus, Applicant respectfully requests that the rejection of claim 7 under 35 U.S.C. §103(a) be withdrawn and the claim be allowed.

New Claims

Claim 15 is directed to a messaging method. The cited portions of Smith fail to disclose, either expressly or inherently, at least the aspects of receiving a user-generated message from a first user device, the message including a receiver designation, a level of granularity around a coordinate location that the message may be made available to at least one second user device; storing the message; determining recipients of the stored message,

Applicant: JENKINS
Serial No: 10/760,095
Filing Date: January 16, 2004
Page: 8 of 9

wherein the determining is based on a profile, a location of the at least one second user device, and the level of granularity of the stored message; wherein the profile of the at least second user device includes a name and an interest of the second user, the level of granularity includes an area surrounding the coordinate location that the message is accessible; sending the stored message to the determined at least one second user. Thus, claim 15 is allowable.

Claim 16 is directed to a messaging system. The cited portions of Smith fail to disclose, either expressly or inherently, at least the aspects of a messaging server configured to communicate with a plurality of devices; the server including a receiver, the receiver configured to receive a user-generated message from the devices, the message including a receiver designation, a level of granularity around a coordinate location that the message may be made available to the devices; a memory, the memory configured to store the message; a determination module configured to determine recipients of the stored message, wherein the determining is based on a profile, a location of the devices, and the level of granularity of the stored message; wherein the profile of the devices include a name and an interest of a user, the level of granularity includes an area surrounding the coordinate location that the message is accessible; a transmitter, the transmitter configured to transmit the stored message to the determined recipients. Thus, claim 16 is allowable. Claims 3-7 and 17 are allowable at least by virtue of their dependence from claim 16, and for the additional aspects they recite.

Applicant: JENKINS
Serial No: 10/760,095
Filing Date: January 16, 2004
Page: 9 of 9

CONCLUSION

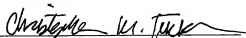
Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: September 21, 2007

Respectfully submitted,

By:



Christopher M. Tucker
Registration No. 48,783

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Direct Dial: 703-770-7646
Main: 703-770-7900
Fax: 703-770-7901